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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,540	12/28/2004	Jens Fennen	2004_2006A	2573
513 7590 05/21/2009 WENDEROTH, LIND & PONACK, L.L.P. 1030 15th Street, N.W., Suite 400 East Washington, DC 20005-1503				
EXAMINER				
KHAN, AMINA S				
ART UNIT		PAPER NUMBER		
1796				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/519,540

Applicant(s)

FENNEN ET AL.

Examiner

AMINA KHAN

Art Unit

1796

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/9/09.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18, 35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 17, 18, 35 and 36 is/are rejected.
- 7) ☒ Claim(s) 15 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to applicant's amendments filed on February 9, 2009.
2. Claims 1-18, 35-36 are pending. Claims 19-34 have been cancelled. Claim 1 has been amended.
3. Claims 1-13,17,18,35 and 36 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al. (US 6,750,188) in view of Komforth et al. (US 6,033,590) for the reasons set forth in the previous office action.
4. Claim 14 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al. (US 6,750,188) in view of Komforth et al. (US 6,033,590) and further in view of Bank et al. (US 5,209,775).
5. Claims 15 and 16 stand objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-13,17,18,35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al. (US 6,750,188) in view of Komforth et al. (US 6,033,590).

Baker et al. teach washing natural leather shoes (column 6, lines 20-25) after tanning and fatliquoring procedures (column 2, lines 15-20) with compositions comprising tetraethylenepentamine, which has been ethoxylated (column 39, lines 50-55), and water proofing agents (column 6, lines 15-20) at 0.01-90% (column 7, lines 20-25) at temperatures of 15°C to 82°C (column 75, lines 5-20). Baker et al. further teach applying the shoe treating compositions at pH values of 3 to 11 wherein the pH may be adjusted with acid addition (column 9, lines 45-65) and further teach that if the composition is used as a pre-wash finishing steps such as washing and rinsing may follow (column 10, lines 1-25). Baker further invite the inclusion of treating shoes made of any natural leather surface (column 6, lines 21-24).

Baker et al. do not teach the wet-white leathers, pretanning with dialdehydes and retanning steps.

Komforth et al. teach that it is conventional to tan leathers followed by retanning and fatliquoring (column 1, lines 5-15), wherein the tanning agent may be glutaraldehyde (column 3, lines 24-30), the retanning agent may be polybutadienes

(column 3, lines 34-36), wherein anionic dyes, neutralizing agents and fatliquoring agents can be used in the treatment liquor in percentages of 0-55% (column 3, lines 40-67; column 4, lines 1-25 and 40-68). Komforth et al. further teach this process is used in making shoes (column 5, lines 55-60). Komforth further teach treating wet-white leathers (column 2, lines 15-20).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to wash wet white leather shoes prepared by the methods of Komforth, which incorporate the shoe tanning, retanning and fatliquoring steps, with the washing methods taught by Baker because Komforth teaches these methods are effective in preparing tanned leather shoes and Baker teaches his method for carefully preserving the tanning treatment during laundering of natural leather shoes. Baker further invite the inclusion of treating shoes made of any natural leather surface (column 6, lines 21-24). One of ordinary skill in the art would have been motivated to combine the teachings of the references absent unexpected results.

8. Claim 14 is are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker et al. (US 6,750,188) in view of Komforth et al. (US 6,033,590) and further in view of Bank et al. (US 5,209,775).

Baker and Komforth are relied upon as set forth in paragraph 7.

Baker and Komforth do not teach the instantly claimed silanes.

Bank teaches that compositions comprising alkyltrialkoxysilanes are efficient in providing water repellence to leather shoes (column 1, lines 30-40; column 4, lines 45-55).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods of Baker and Komforth by incorporating the silane water repellants of Bank into the compositions because Baker invites the inclusion of water repellants into the washing compositions and Bank teaches the enhanced water repellence provided to leather shoes treated with these compositions. One of ordinary skill in the art would have been motivated to combine the teachings of the references absent unexpected results.

Response to Arguments

9. Applicant's arguments filed regarding Baker in view of Komforth have been fully considered but they are not persuasive. The applicant's argue that Baker and Komforth are not directed towards treatment of a wet-white leathers which are unfinished leathers which require subsequent treatment. The examiner respectfully disagrees with applicant's arguments. Komforth et al. clearly teach the treatment of wet white leathers and further teach that many types of retanning agents including non-chromium based tanning agents may be used (column 2, lines 15-25; column 3, lines 25-29). Baker further teaches that shoes of the invention may be of any natural leather surface (column 6, lines 21-24) and that protection of the shoes from washing away of fatliquors and/or oils and/or tanning agents such as chromium must be accomplished. Chromium

is just cited as an example and is not limiting of the invention. Furthermore, Bakers teaching that shoes of any leather surface may be used in the washing process of the invention. Komforth teaches the treatment of shoes by non-chromium tanning methods is conventional such as wet-white methods. The claims are simply directed towards treating wet white leather with an anionic reagent such as an anionic dye followed by an organic polyamine which is clearly met by the prior art. Komforth further teaches making shoes from these treated leathers (column 5, lines 55-60). Baker is relied upon to demonstrate that that leather shoes previously treated with fatliquors and tanning agents are conventionally washed (column 2, lines 15-20) and that detergents comprising the tetraethylenepentamine (column 39, lines 50-55) are useful as polymer dispersants in washing compositions which provide shoes with protection during a treatment cycle. For this reason there is motivation to combine Baker and Komforth.

All disclosures of the prior art, including non-preferred embodiment, must be considered. See *In re Lamberti and Konort*, 192 USPQ 278 (CCPA 1967); *In re Snow* 176 USPQ 328 (CCPA 9173). Nonpreferred embodiments can be indicative of obviousness, see *Merck & Co. v. Biocraft Laboratories Inc.* 10 USPQ 2d 1843 (Fed. Cir. 1989); *In re Lamberti*, 192 USPQ 278 (CCPA 1976); *In re Kohler*, 177 USPQ 399. A reference is not limited to the working examples, see *In re Fracalossi*, 215 USPQ 569 (CCPA 1982).

Regarding the limitation of adding acids, Baker et al. clearly teach using acids to adjust the pH of the treating compositions followed by washing and rinsing steps.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMINA KHAN whose telephone number is (571)272-5573. The examiner can normally be reached on Monday through Friday, 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lorna M Douyon/
Primary Examiner, Art Unit 1796

/Amina Khan/
Examiner, Art Unit 1796
May 20, 2009